

Bureau of Export Administration



- Broadening Trade
- Critical Infrastructure

Enabling Legislation

The Bureau of Export Administration (BXA) was established as a separate agency within the Department of Commerce on October 1, 1987, and draws its authority from the Export Administration Act of 1979, as amended, and related statutes. BXA licenses commodities and enforces export control laws and regulations mandated by Congress or through Executive Orders.

Bureau Context

BXA is a regulatory agency that promotes U.S. national and economic security, public safety, and foreign policy interests by managing and enforcing the Department's security-related trade and competitiveness programs. **BXA plays a key role in meeting challenges that involve national security and nonproliferation of export control issues.** The bureau's continuing major challenge is combating the proliferation of weapons of mass destruction while furthering the growth of U.S. exports, which is critical to maintaining our leadership in an increasingly competitive global economy.

The bureau is particularly vigilant in evaluating transactions involving advanced technologies as well as products subject to diversion to chemical, biological, nuclear and missile weapons programs. Recent mandates include: controlling exports of encryption products, overseeing Chemical Weapons Conversion (CWC) compliance, enforcing industrial fastener quality legislation, and protecting critical infrastructures in the United States.

With increased concern about the proliferation of weapons of mass destruction, BXA has brought U.S. export controls in line with the new international political environment by reforming the dual-use export control system. At the same time, BXA seeks to enhance its export regulatory effectiveness by educating stakeholders in the export licensing process, thereby strengthening compliance by industry and furthering international export control efforts. Combined, these two efforts will result in a streamlined dual-use commodity control list, and an improved license application cycle for controlled items without compromising our national security and public safety interests. These efficiencies will allow U.S. exporters to be more competitive in world markets, benefiting both the exporters and the U.S. economy.

BXA serves U.S. businesses engaged in international trade by processing applications to export controlled commodities in accordance with the Export Administration Regulations (EAR). Within this framework, BXA also seeks to control the spread of weapons of mass destruction, maintain a strong U.S. defense industrial base and ensure higher quality manufacturing processes in the U.S.

Priorities and Initiatives

Broadening Trade - BXA continues to support important government-wide actions to remove unnecessary obstacles to exporting, and to strengthen multilateral regimes. BXA also assists small and medium sized businesses to increase their involvement in export markets by helping them understand export control requirements through outreach visits, conferences, and seminars.

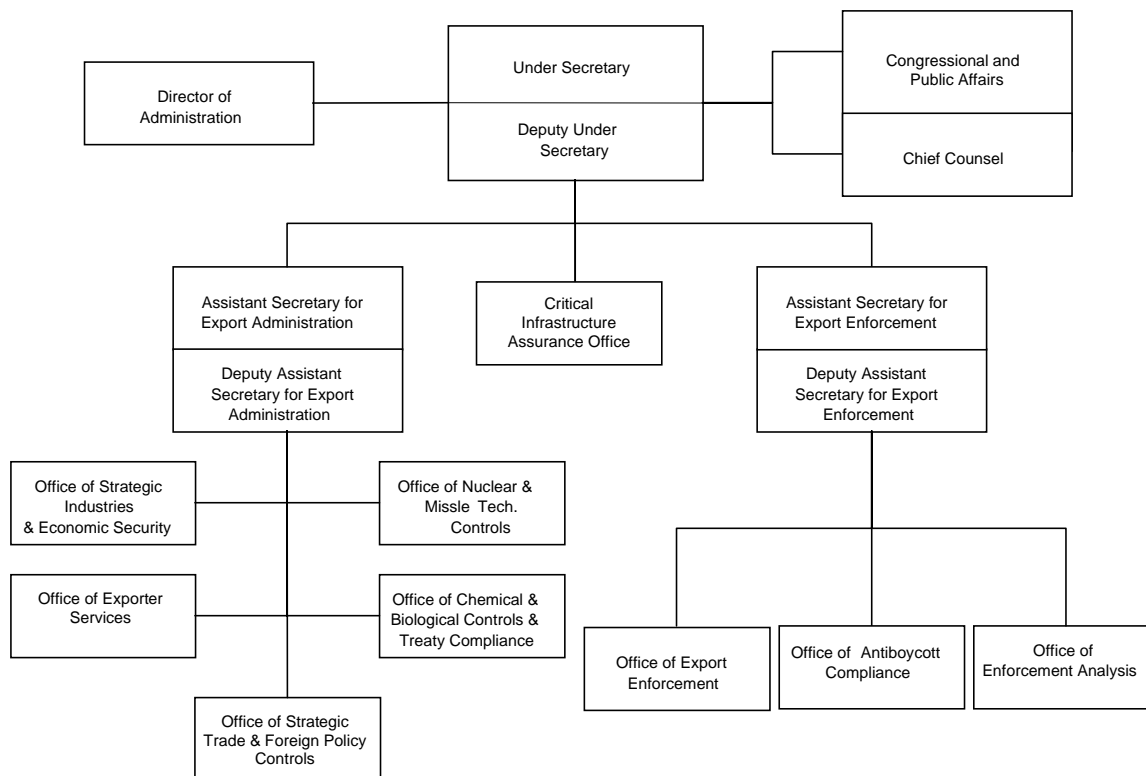
Critical Infrastructure Program - Presidential Directive 63 (PDD-63) calls for a national effort to assure the national security of the increasingly vulnerable and interconnected infrastructures of the United States. It stresses the critical importance of cooperation between the government and the private sector by linking designated agencies with private sector representatives. PDD-63 instructs the Department of Commerce to establish the Critical Infrastructure Assurance Office (CIAO).

Bureau of Export Administration



- Broadening Trade
- Critical Infrastructure

Organizational Structure



BXA serves the U.S. exporting community from its Washington, D.C. headquarters, and 10 field offices in Boston, New York, Chicago, Herndon, Miami, Dallas, San Jose, Santa Clara, Irvine, and Newport Beach.

Bureau of Export Administration



- Broadening Trade
- Critical Infrastructure

Measures and Targets Summary

Goal: Restructure export controls for the 21st century

<u>Measure</u>	<u>Target</u>
• High risk transactions deterred (#)	508
• Licensing decisions (#)	12,000
• Average processing time for license applications (days)	33
• Export assistance seminars/conferences (#)	204
• Nonproliferation and export control international co-operative exchanges (#)	30

Goal: Maintain a fully effective law enforcement program and protect U.S. national security, foreign policy, nonproliferation of dual-use commodities and chemical weapons, counter-terrorism, and public policy

<u>Measure</u>	<u>Target</u>
• Enforcement outreach visits (#)	900
• Investigations completed (#)	1,300
• Investigations accepted for criminal or administrative remedies (#)	80
• End-use visits conducted (#)	680

Goal: Facilitate transition of defense industries

<u>Measure</u>	<u>Target</u>
• Strategic industry analyses completed (#)	295

Resource Requirements Summary*



\$60.5 Million



477 FTEs
Skills: In-depth knowledge of the Export Administration regulations, related policies, and commodity controlled items, as well as analytical skills



IT Requirements: \$6.8 Million/Operations, maintenance and reengineering

*Note: Only the budget and FTE numbers reflect the Critical Infrastructure Assurance Office (CIAO).

Bureau of Export Administration

Restructure export controls for the 21st century



• Critical Infrastructure

Rationale for/Comments on Performance

Goal:

Streamlining the application processing system and educating the U.S. exporting community about the Export Administration Act (EAA) and the Export Administration Regulations (EAR):

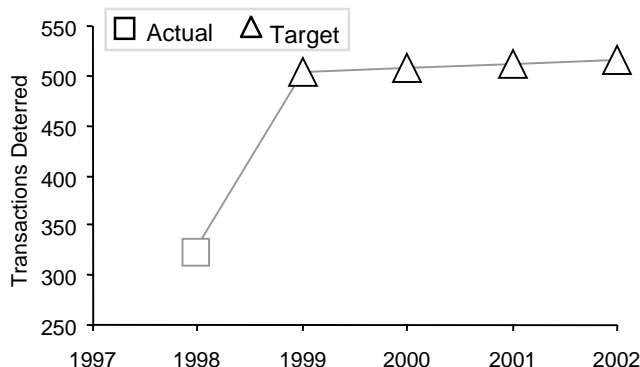
- Results in a more effective control system and helps prevent illegal transactions
- Makes the U.S. exporting community more competitive in the global marketplace, by helping the community meet shipping deadlines and reducing transaction costs

Strengthening foreign national export control systems reduces proliferation of controlled commodities produced locally or being transshipped.

This goal supports the Department's Strategic Theme, "To build for the future and promote U.S. competitiveness in the global marketplace, by strengthening and safeguarding the Nation's economic infrastructure" by:

- Improving the competitiveness of U.S. companies through prompt export licensing decisions
- Ensuring that sensitive technologies are not inappropriately transferred outside the U.S.
- Providing a level playing field internationally through the development of comparable export control systems by other countries

Measure: Number of high risk transactions deterred

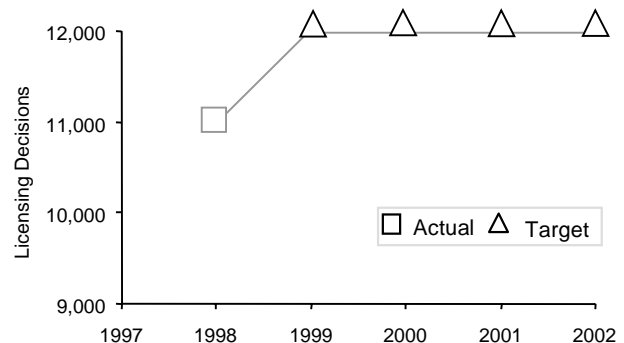


The number of license applications received, analyzed, and subsequently denied by BXA indicates the number of high-risk transactions which BXA reviewed and subsequently denied based upon a careful risk assessment. Beginning in FY 1999, BXA will include in this category those transactions returned without action (RWA) because the applicant was not able to provide sufficient background or technical information to support approval of the license application. U.S. security is enhanced through the judicious implementation of controls on transfers of materials, equipment, technology and software that could be used for weapons applications.

Data Validation and Verification

Target:	508 (FY 2000)
Source:	ECASS (Export Control Automated Support Systems)
Frequency:	Annual
Data storage:	ECASS
Verification:	ECASS contains appropriate systems edits, and measures are audited under the CFO's Act.

Measure: Number of licensing decisions



This measure counts the total number of applications that were either approved, denied, or returned without action (RWA) during the fiscal year. Upon receipt, license applications are reviewed for completeness (front-end review) and entered into the Export Control Automated Support Systems (ECASS), BXA's electronic processing system. If incomplete, additional information is requested from the exporter before proceeding. If complete, the application is screened against an automated list of end-users of concern, forwarded to the appropriate licensing and enforcement specialists for a complete analysis of the application, (i.e., reviewed against available intelligence information, required referrals to other export control agen-

Bureau of Export Administration

Restructure export controls for the 21st century (cont.)



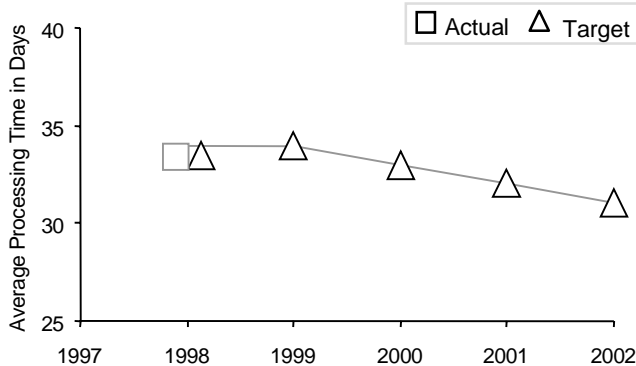
• Critical Infrastructure

cies, and subsequent policy reconsideration/determination.) The number of export licensing decisions is the best measurement for the scope of the dual-use export control system as it relates to trade advanced goods and technology.

Data Validation and Verification

Target: 12,000 (FY 2000)
Source: ECASS
Frequency: Annual
Data storage: All license processing data are stored in the Export Control Automated Support System.
Verification: ECASS contains appropriate systems edits, and measures are audited under the CFO Act.

Measure: Average processing time for license applications

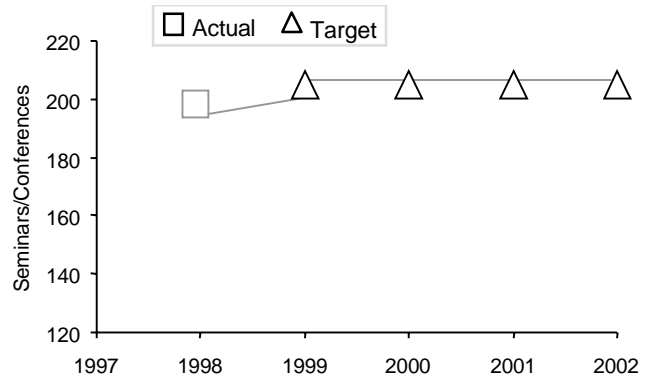


This measure reflects the average number of calendar days that elapsed between receipt and final action for all applications processed during the fiscal year regardless of the date received.

Data Validation and Verification

Target: 33 (FY 2000)
Source: ECASS (Export Control Automated Support Systems)
Frequency: Annual
Data storage: ECASS
Verification: ECASS contains appropriate systems edits, and measures are audited under the CFO Act.

Measure: Number of export assistance seminars/conferences



The number of training events in which BXA either is a sponsor or participant measures the transfer of knowledge from the government to the private sector about the requirements of export controls. BXA's outreach program to the domestic and international business communities encourages compliance with the Export Administration Regulations (EAR). These seminars heighten businesses' awareness of the Administration's objectives and improve their compliance with the regulatory requirements. In support of another BXA goal (Facilitate Transition of Defense Industries), these seminars also help identify market opportunities for firms in the U.S. defense industrial base, and identify those firms who could benefit from BXA's advocacy and defense industrial base programs.

Data Validation and Verification

Target: 204 (FY 2000)
Source: Counts of seminars and conferences from the seminar schedule published each year.
Frequency: Annual
Data storage: The Office of Exporter Services collects and stores the data.
Verification: Under the CFO Act, a private sector audit firm performs an independent verification and validation of the data source and data.

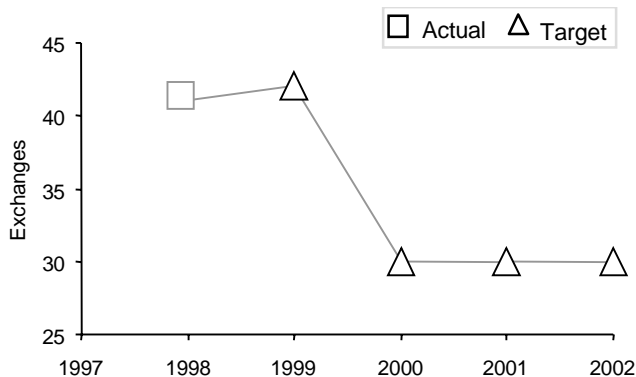
Bureau of Export Administration

Restructure export controls for the 21st century (cont.)



• Critical Infrastructure

Measure: Number of nonproliferation and export control international cooperative exchanges



This measure includes technical exchanges, executive exchanges, symposia, fora, workshops, and training courses delivered through Nonproliferation Export Control (NEC) activity, other training courses, assessments, and multilateral and bilateral activities in which NEC has the lead or a primary role. These exchanges are the primary means by which NEC implements its nonproliferation and export control cooperation programs with foreign governments. This measure records the number of exchanges and not the number of countries participating. If one exchange involves multiple countries (e.g., the annual update event) the exchange is still counted as one item.



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An *output* rather than an *outcome* measure is used because NEC activity has a greater ability to affect the output (i.e., the number of technical exchanges) than it has to affect the outcome (i.e., improvements in the export control systems in the foreign countries). The latter is substantially determined by the actions of foreign sovereign governments, which is a factor clearly out of NEC's control.

Data Validation and Verification

Target: 30 (FY 2000)
Source: NEC activity files, reporting cables, and other files
Frequency: Annual
Data storage: NEC collects and stores the data.
Verification: Under the CFO Act, a private sector audit firm performs an independent verification and validation of the data source and data.

Means and Strategies

- Receipts, reviews, interagency consultations, and decisions on export license applications that are accurate, consistent, and timely, using state-of-the-art information technology.
- Provision of full range of information to the exporting community through publications, seminars, web sites, and individual consultations.
- Development of uniform control lists and licensing practices with like-minded supplier nations.
 - Development (through NEC activity) of a model country plan that addresses all five functional areas of effective export control systems (legal and regulatory framework, licensing procedures and control lists, enforcement mechanisms, industry-government relations, and systems administration and automation). This plan has been tailored to the specific needs of each of the 23 participating countries. BXA/NEC carries out these plans by means of :

- 1) technical exchanges (bilateral or multi-lateral) for senior- and mid-level export control officials that take place at headquarters or in the field
- 2) modular training materials prepared and used by specialists in their functional areas and made available in two or more languages
- 3) automated job tools that foreign officials can use in the execution of their work (e.g., classifying commodities, developing licensing officer principles)

Bureau of Export Administration

Restructure export controls for the 21st century (cont.)



• Critical Infrastructure

Crosscutting Activities

- *Departments of State, Defense, Energy, Treasury, Justice and ACDA:* BXA works with these agencies and departments to develop and implement U.S. export control policy and programs, including developing encryption policy, implementing sanctions, and participating in multilateral regimes such as the Missile Technology Control Regime and the Wassenaar Arrangement. BXA also coordinates intelligence and enforcement operations with these agencies.
- *U.S. Customs Service and the Nonproliferation Center:* BXA coordinates export control cooperation technical exchanges and activities with these agencies, in addition to the ones already mentioned.

External Factors

- Changes in world events (e.g., nuclear tests, terrorist activity) requiring new export restrictions
- Developments in technology requiring adjustments to control lists
- New legislative requirements for additional controls or license application review
All of the above factors can be mitigated through the design of well targeted, appropriate regulations and through the timely education of the public.
- BXA continues to rely on other agencies, most recently the Department of State, to fund the technical exchanges and activities relating to export control cooperation. As implemented, the process is extremely cumbersome and fraught with uncertainty and delay.
Direct funding for BXA's export control cooperation effort would ameliorate these problems.
- Scheduling of technical exchanges and activities is contingent on the interagency coordination process and the other countries involved.
Close and frequent contact with other U.S. agencies and patient consultation with foreign control officials minimizes these problems.
- Shifts in U.S. policy (e.g., suspension of activity with Belarus) occasionally prevent performance of scheduled, funded technical exchanges or preclude participation of some invited participants.

Resource Requirements



\$26 Million



205 FTEs

Skills: Analytic skills, technical expertise, knowledge of commodity controlled items



IT Requirements: \$2.8 Million

Bureau of Export Administration

Maintain a fully effective law enforcement program



- Broadening Trade
- Critical Infrastructure

Maintain a fully effective law enforcement program to protect US national security and public safety, uphold US foreign policy, and ensure the nonproliferation of dual-use commodities and chemical weapons

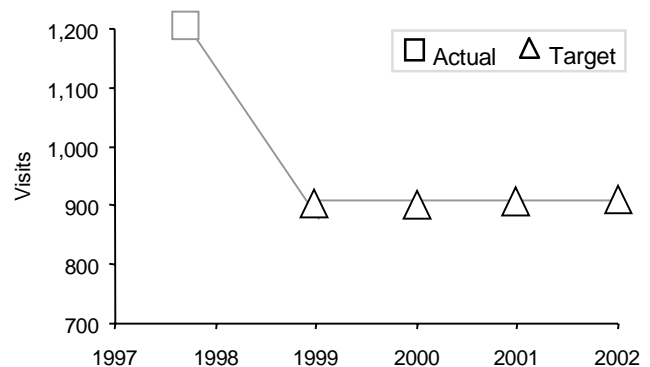
Rationale for/Comments on Performance

Goal:

A number of aggressive investigation and verification activities are aimed at deterring export control violations, and imposing criminal or administrative sanctions on violators.

BXA conducts outreach visits and conferences sponsored by trade and business associations and continuing legal education institutions. These outreach efforts support the *Broadening Trade* initiative while protecting important national security and foreign policy interests by helping exporters understand export control regulations.

Measure: Number of enforcement outreach visits



As part of their preventive enforcement mission, BXA special agents visit U.S. firms under "Project Outreach." During each outreach visit, the agents educate the firm about BXA's enforcement program and seek the firm's voluntary cooperation in detecting potential illegal transactions. Antiboycott outreach occurs in the form of presentations to organizations concerning compliance with the antiboycott provisions of the EAA. These outreach efforts focus on conferences sponsored by trade and business associations and continuing legal education institutions.

As a result of new Special Agent hires, EE was able to conduct more than the normal amount of outreach visits during FY 1998.

Data Validation and Verification

Target:	900 (FY 2000)
Source:	Enforce subsystem of ECASS and paper files; agent monthly activity reports.
Frequency:	Annual
Data storage:	The Office of Export Enforcement collects and stores the data.
Verification:	Under the CFO Act, a private sector audit firm performs an independent verification and validation of the data source and data.

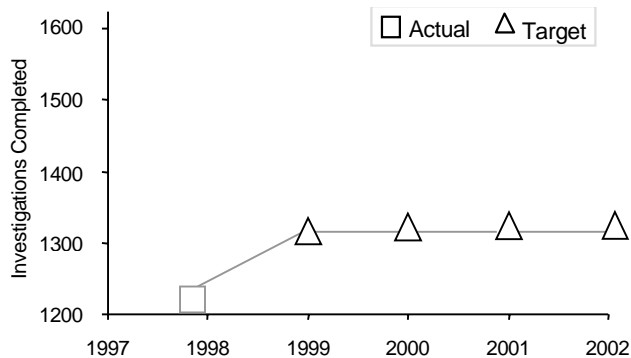
Bureau of Export Administration

Maintain a fully effective law enforcement program (cont.)



- Broadening Trade
- Critical Infrastructure

Measure: Number of investigations completed



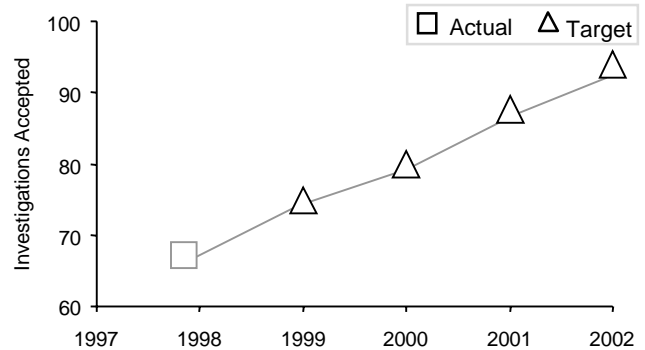
When there is reason to believe that the Export Administration Act (EAA) and the Export Administration Regulations (EAR) have been violated, Office of Export Enforcement (OEE) criminal investigators and Office of Antiboycott Compliance (OAC) compliance officers initiate a formal investigation and open a case file. Investigations result in a criminal or administrative penalty, a warning letter for minor infractions, or closing of the case if no violation is found.

This output measure covers one of the most important features of our law enforcement program, namely, the pursuit of an investigation to a proper conclusion based on the facts and law.

Data Validation and Verification

Target: 1,300 (FY 2000)
Source: Enforce subsystem of ECASS and case management database
Frequency: Annual
Data storage: The Office of Export Enforcement collects and stores the data. Case are also tracked in ECASS.
Verification: Under the CFO Act, a private sector audit firm performs an independent verification and validation of the data source and data.

Measure: Number of investigations accepted for criminal or administrative remedies



This measure refers to investigations accepted by U.S. Attorney's offices for criminal prosecution and/or Commerce's Office of Chief Counsel for administrative sanctions.

Data Validation and Verification

Target: 80 (FY 2000)
Source: Enforce subsystem of ECASS and case management database
Frequency: Annual
Data storage: The Office of Export Enforcement and the Office of Chief Counsel collect and store the data. Case status information is reconciled quarterly.
Verification: Under the CFO Act, a private sector audit firm performs an independent verification and validation of the data source and data.

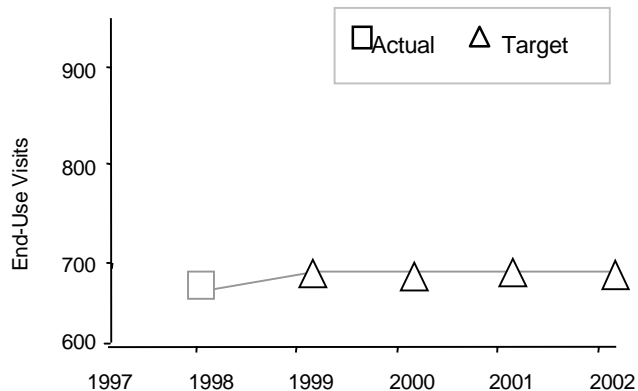
Bureau of Export Administration

Maintain a fully effective law enforcement program (cont.)



- Broadening Trade
- Critical Infrastructure

Measure: Number of end-use visits conducted



A key element of EE's mission is conducting on-site visits to foreign end-users of selected goods and technologies exported under the EAR. End-use visits consist of pre-license checks and post-shipment verifications. Pre-license checks are performed prior to issuance of licenses by BXA and are generally done by US&FCS. Post-shipment verifications are done by US&FCS officials, as well as OEE special agents, to ensure that the products are being used by the authorized end-users for the authorized end-uses.

This output measure supports the intermediate goals of:

- (1) maintaining an effective law enforcement program, by determining the legitimacy of controlled export transactions
- (2) improving public knowledge of and compliance with export regulations, by educating foreign consignees of U.S.-origin items
- (3) increasing cooperation with domestic and international law enforcement, export control and policy organizations, by sharing information with EE's law enforcement counterparts located in countries where the visits are conducted

Data Validation and Verification

Target: 680 (FY 2000)
Source: End use visit reports, Enforcement subsystem of ECASS
Frequency: Annual
Data storage: The Office of Export Enforcement and the Office of Enforcement Analysis collect and store the data. OEE and US&FCS make and document visits. OEA does data entry into ECASS.
Verification: Under the CFO Act, a private sector audit firm performs an independent verification and validation of the data source and data.

Bureau of Export Administration

Maintain a fully effective law enforcement program (cont.)



- Broadening Trade
- Critical Infrastructure

Means and Strategies

- Outreach visits to industry enable investigators to obtain tips and leads concerning possible violations, while educating exporters about how to comply with the export control laws and regulations
- Investigations are conducted in a timely and efficient manner to determine whether violations of the law have occurred
- EE presents cases to prosecutors for possible initiation of criminal or administrative enforcement proceedings in order to punish past and deter future violators, thereby insuring that the export control system works effectively
- EE conducts visits overseas to determine the legitimacy of controlled export transactions, educate foreign consignees about U.S. export laws, and share information with foreign export control officials

tions. The number of post-shipment verifications will vary with the volume of High Performance computers exported to certain countries, where NDAA mandates end-use checks.

Neither factor can be mitigated by EE, because these factors derive from higher-level export control policy decisions.

Resource Requirements



\$26.4 Million



212 FTEs

Skills: Investigate and analyze export controls, analyze intelligence information



IT Requirements: \$3.0 Million

Crosscutting Activities

- *U.S. Customs Service, FBI, Department of Justice, Department of State, and the Intelligence Community:* BXA works with these agencies on matters involving law enforcement cooperation, development of leads, intelligence coordination, implementation of export control policy, and coordination on issues such as export license investigations and fastener quality

External Factors

- None identified for the measures "Number of outreach visits" or "Number of investigations completed."
- The priorities and resources of the Department of Justice and Commerce's Office of Chief Counsel directly influence the measure "Number of investigations accepted for criminal or administrative remedies."

Targeting investigations effectively, conducting investigative activities professionally, and presenting cases to prosecutors persuasively will help mitigate this factor.

- For the measure "Number of End-Use Visits Conducted," the number of pre-license checks will vary with the annual volume of license applica-

Bureau of Export Administration

Facilitate transition of defense industries



Rationale for/Comments on Performance

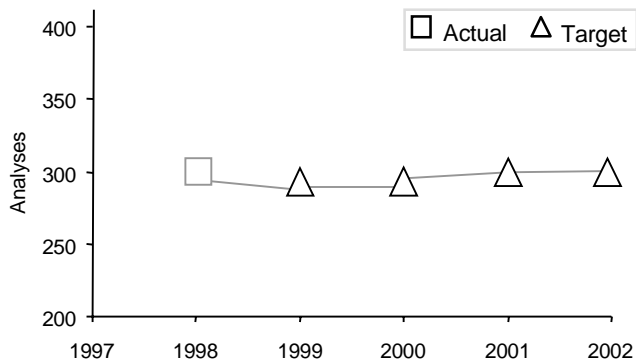
Goal:

A strong economic/industrial infrastructure is partly dependent upon the ability to transition our defense industries to peace time activities and products, while at the same time maintaining technological superiority to support the next generation of defense systems.

This goal supports two Department Strategic Themes, Economic Infrastructure and Science & Technology, by:

- Ensuring the continued viability of U.S. firms through the development of new commercial avenues for former defense products
- Maintaining the economic viability of high tech industries by providing the research base from which new innovations will appear
- Keeping U.S. defense firms competitive domestically and internationally through the development of new and innovative product lines

Measure: Number of strategic industry analyses completed



Strategic Industry Analyses communicate economic and commercial information to businesses, influencing their marketing or policy decisions. Analyses provided to government decision-makers present data to develop appropriate economic and defense industry policies. These analyses, undertaken by BXA as part of its broad responsibility to support the U.S. defense industrial and technology base, include assessments of the impact of global and domestic economic, trade, regulatory, and budgetary factors on the U.S. economic/industrial base. The analyses also assess the international competitiveness and production capabilities of strategic industries

and technologies. Specific categories of analyses are: Defense Memoranda of Understanding impact reviews; Impact of Excess Defense Article assessments; Stockpile Disposal market impact analyses; Industrial Capabilities studies; Impact of Offsets in Defense Trade analyses; and analyses of the Impact of Export Controls/Sanctions.

Data Validation and Verification

Target:	295 (FY 2000)
Source:	The analytical products are written reports which are forwarded to the requester and are available for review and assessment.
Frequency:	Annual
Data storage:	The Office of Strategic Industry and Economic Security collects and stores the data.
Verification:	Under the CFO Act, a private sector audit firm performs an independent verification and validation of the data source and data.

Bureau of Export Administration

Facilitate transition of defense industries (cont.)



Means and Strategies

- Affected industries are surveyed and resulting information is provided to the public at large. Proposed government actions affecting the well being of firms are assessed and the consequences for the companies and economy at large are measured and provided to decision-makers. Macro- and micro-economic research is used to support critical industry analyses and export control assessments.

nations subject to export controls, thereby requiring new industry analyses.

These factors can be mitigated by targeting analyses to the most critical industrial sectors and by working with other like-minded supplier nations to develop comparable acquisition and sales practices.

Crosscutting Activities

- Department of Energy:** BXA participates in an interagency review of foreign participation in DOE sponsored Research and Development Agreements. DOE is partnered with BXA in promoting the reuse of surplus manufacturing equipment at former U.S. military bases.
- Departments of Labor, State and Treasury; U.S. Trade Representative (USTR):** Representatives from these departments participate in an interagency group chaired by BXA which prepares the annual report, *Offsets in Defense Trade*, for the U.S. Congress.
- Department of Defense:** BXA works closely with DOD in providing support for U.S. industry competing for international defense procurement opportunities.
- Department of State:** BXA participates in the State-chaired Conventional Arms Transfer Committee.
- U.S. Trade Representative (USTR):** BXA is part of a USTR-led interagency team that is developing and implementing the U.S.- E.U. Transatlantic Economic Partnership.

Resource Requirements



\$1.0 Million



7 FTEs

Skills: Program-related analytic skills



IT Requirements: \$0.2 Million

External Factors

- The biggest external factor affecting the overall volume of strategic industry analyses completed is the environment for international defense trade and cooperation. Domestic and international economic conditions affecting the health of U.S. strategic industries influence the need for strategic industry analyses.
- Unanticipated global events may also affect such analyses by shifting the commodities and desti-